



Center for Prisoners' Rights Japan
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On Friday December 18th, Japan's Justice Minister Mitsuhide Iwaki executed Mr. Sumitoshi Tsuda and Kazuyuki Wakabayashi at Tokyo and Sendai Detention Center respectively, for the first time during his term of office since October 2015.

On the occasion of the last execution ordered by then Justice Minister Kamikawa, we pronounced in our statement as follows; "with the increasing number of death sentences handed down by lay judges, it seems utterly impossible to avoid execution of death sentences which were imposed by lay judges and finalized without any review by the higher courts. The Japanese government should stop forcing its citizens to take the responsibility of retaining capital punishment, citing the result of opinion polls and the system of lay judge trial. Instead, the government should introduce the mandatory appeal system and commence review of the entire death penalty system". Today we repeat the same words here.

Mr. Tsuda, sentenced to death in lay judge trial held in June 2011, had withdrawn his appeal to the High Court and made his sentence finalized the following month. Prior to indictment, public prosecutor's office commissioned two separate psychiatric tests on his criminal responsibility. Trial court also ordered an additional test, which found him responsible. However, validity of the withdrawal is doubted in light of the 1995 Supreme Court decision which established standards for validity of withdrawal made by inmates sentenced to death. Today's execution reminds us urgent necessity for introduction of mandatory appeal system for death sentences. Many death sentences have been finalized without review by appellate courts for lack of the system of mandatory appeal. The consequences of such a fault in the judicial system not only are the innocents held on death row but also those who do not deserve to death are sentenced to death. As there are various factors which are crucial for determination of ultimate punishment, there is always great risk of erroneous decision in sentencing. A recent example of this would be the decisions made by the Tokyo High Court to overturn lay judges' decisions to impose the death penalty in three cases, which were subsequently upheld by the Supreme Court. Thus, various UN human rights bodies such as UN Human Rights Committee (2008) and The Committee Against Torture (2007, 2013) have issued recommendations time and time again, that there should be steps taken to ensure that such appeals shall become mandatory.

Mr. Wakabayashi, who later retracted admission of his direct responsibility for double murders in the appellate court, had fully admitted the commission of the crimes and his conviction had come only nine months after the incidents. This means prosecutor's case was not seriously tested by the defense based on his denial. Japan adopts a unidary trial, in which the issue of punishment is submitted to the court along with the issue of guilt. Defendants are forced to beg for mercy, while they contend that they are not guilty in the course of same procedure. Our criminal justice system is designed too poorly to impose ultimate punishment in many ways, including Penal Code provisions which give sentencers broad discretion.

The Japanese government should face up to numerous problems on the system of the death penalty and immediately commence review of the entire system including abolition of the punishment.

Center for Prisoners' Rights condemns today's executions and will continue its struggle to achieve moratorium on executions and ultimate abolition of the death penalty.

Yuichi KAIDO

President

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Center for Prisoners' Rights